

June 17, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REVISED REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E9900846**

BRIAN CORRINGTON
Code Enforcement Appeal

Location: 17263 Southeast Licorice Way, Renton

Appellant: **Brian Corrington**
17263 Southeast Licorice Way
Renton, Washington 98059
Telephone: (425) 985-5866

King County: Department of Development and Environmental Services
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-6772
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal; extend compliance date
Examiner's Decision:	Deny appeal; extend compliance date

EXAMINER PROCEEDINGS:

Hearing Opened:	May 18, 2005
Hearing Closed:	May 18, 2005 ¹
Initial Decision Issued:	June 6, 2005

¹ Mr. Corrington failed to appear at hearing and the Examiner received evidence and testimony from DDES and stated that he would rely on the appeal statement as the Corrington presentation, rather than dismissing the appeal for failure to show. After the hearing was closed on May 18, 2005, the Examiner was informed that Mr. Corrington had been physically in the DDES office building in Renton in which the hearing room is located and where the hearing was held, but for some unexplained reason did not enter the hearing room and attend the hearing. In correspondence sent May 19, 2005 to Mr. Corrington, the Examiner offered to reopen the hearing on request if any presentation was desired to be made in addition to the appeal statement. No such request was submitted by the deadline of May 27, 2005 imposed by the Examiner for such request (and none to date). The Examiner shall accordingly rely on the appeal statement in considering the appeal.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On March 16, 2005, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Brian A. Corrington that alleged a code violation at property located at 17263 Southeast Licorice Way. The Notice and Order cites the property for violation by:

“1. Construction of a deck without the required permit, inspections and approvals in violation of Sections 16.02.240 and 21A.28.020 of the King County Code and Sections 105.1 and 113.1 of the 2003 International Building Code.”

The Notice and Order required that by May 16, 2005, the required permits, inspections and approvals be applied for and obtained for the constructed deck, and that all deadlines for requested information and permit attainment be met during the application period. Alternatively, as an option other than obtaining a permit for the deck as existing, the deck may be reduced in size to conform to the original permitted dimensions and specifications (permit B97R2047).
2. Appellant Brian A. Corrington, an owner of the property, filed a timely appeal of the Notice and Order. The appeal raises the following claims:
 - A. The deck in question was constructed under a previous ownership (Jill and Michael Fry).
 - B. The County failed to enforce the code at the time of violation.
 - C. Mr. Corrington purchased the property in 2002 and had no knowledge of the violation.
 - D. Accordingly, Mr. Corrington should not be held responsible for the violation.
3. The deck in question was permitted for a size of 200 square feet, but was built substantially larger than that (approximately double), with a much greater height above grade than permitted.
4. Mr. Corrington possesses innocent purchaser status with regard to the construction of the deck.
5. The evidence in the record supports a finding that the charge of violation in the Notice and Order is correct.

CONCLUSIONS:

1. Regardless of Mr. Corrington’s innocent purchaser qualification in this case, he as current property owner is still responsible for abating the violation by obtaining the necessary permits for the deck as constructed (or alternatively, to reduce the deck to the size and specifications permitted under the existing permit). Mr. Corrington is not liable for committing the original violation and is therefore not subject to penalties for the original violation, but is still responsible as the property owner for correcting it. [KCC 23.02.130(B)]

2. As the deck was constructed in excess of the specifications in dimensions for which a permit was granted, Charge 1 of the Notice and Order is correct and shall be sustained.
3. As the Notice and Order deadline for compliance by obtaining the necessary permit and approvals for construction of the deck in its current form has been obviated by the time taken up by the appeal, the compliance dates shall be modified accordingly.

DECISION:

The appeal is DENIED, except that the deadlines for regulatory compliance are revised and extended as stated in the following Order.

REVISED ORDER:

1. Apply for and obtain the required permits, inspections and approvals for the deck as constructed, with complete application to be submitted *no later than* **July 8, 2005**. Any and all deadlines for DDES-requested information to process the permit and obtainment of the permit shall be complied with. Alternatively, a demolition permit may be obtained as necessary *no later than* **July 8, 2005** and the excess portions and/or over-height portions of the deck as constructed removed and demolished so that the deck is brought into compliance with the specifications and limitations of the existing deck permit, with all demolition debris removed from the premises *no later than* **August 5, 2005**.
2. (Added with revision) No penalties shall be assessed against the Appellant or his property if the above condition is met. If any of the deadlines stated in the above condition is not met, DDES may assess penalties against the Appellant and the property retroactive to the date of this revised order.

REVISED ORDER ISSUED this 17th day of June, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 17th day of June, 2005 via certified mail to the following:

Brian and Sherrie Corrington
17263 Southeast Licorice Way
Renton, Washington 98059

TRANSMITTED this 17th day of June, 2005, to the following parties and interested persons of record:

Brian Corrington
17263 SE Licorice Way
Renton WA 98059

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
Code Enf. Supvr.
MS OAK-DE-0100

Trudy Hintz
DDES/LUSD
Site Development Services
MS OAK-DE-0100

Patricia Malone
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Lamar Reed
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

Holly Sawin
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's revised decision shall be final and conclusive unless proceedings for review of the revised decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's revised decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE MAY 18, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9900846.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was Holly Sawin, representing the Department. There were no other hearing participants.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report for 5/18/05
- Exhibit No. 2 Copy of Notice and Order issued 3/16/05
- Exhibit No. 3 Copy of Notice and Statement of Appeal, dated 3/29/05
- Exhibit No. 4 Copies of Codes cited in the Notice and Order
- Exhibit No. 5 Photograph (1 color) of subject property

PTD:ms
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